WP(C) 1413/2005

BEFORE

HON'BLE MR JUSTICE P.G.AGARWAL

HON'BLE MR. JUSTICE H.N.SARMA

Heard Mr.P.C.Dey, learned counsel for the petitioner.

The petitioner Smti Hironmoyee Kalita has approached this Court challenging the legality of the Notice No. GPL/UC/7/61/2004/3/79 dated 12.10.2004 issued by the Commissioner, Guwahati Municipal Corporation under Section 416(i)(ii) hereby the petitioner was asked to show cause as regards construction of RCC building situated at Kamakhya Temple Gate.

The case of the petitioner is that the said building along with the land was purchased by thepetitioner from one Dharmeswar Sarma some time in the year 2001. According to the petitioner the said building was constructed by said Dharmeswar Sarma after obtaining No Objection Certificate way back in the year 1990. Thereafter, the Deputy Commissioner , Guwahati Municipal Corporation duly assessed the building.

The Respondent Guwahati Municipal Corporation has filed an affidavit-in-opposition that the compound wall are not constructed as per approved plan and the No-objection Certificate and the said NOC was issued in the name of said Dharmeswar Kalita in 1990 and the same are not transferable under the GMC Rules. The petitioner cannot be insulated from any defect in the construction merely because she is a purchaser. Whatever property that has been purchased by the petitioner is along with the liability.

Admittedly, the petitioner has not filed any reply against the show cause. Against the said show cause the petitioner submitted a letter dated 16.02.05 (Annexure-F) wherein copies of some documents were furnished to the Commissioner , GMC. A submission was made that those documents may be examined by the GMC authority to find out whether the building was constructed as per the plan or there is any deviation etc. We decline to entertain such submission.

We, therefore, dispoe of this writ petition with direction to the petitioner to file a detailed show cause reply supported by documents within three weeks from to-day whereupon the GMC shall examine the matter and after hearing the petitioner shall pass a reasoned order in the matter. In the event of failure to show cause, the Respondent authority shall be at liberty to proceed in accordance with law.

The interim order dated 28.02.2005 of this Court also stands vacated.